



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/718,747

11/21/2003

Benny Souder

50277-2343

1778

29989

7590

06/15/2006

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

EXAMINER

EBIRIM, EMEKA

ART UNIT

PAPER NUMBER

2166

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,747

Applicant(s)

SOUDER ET AL.

Examiner

Emeka Ebirim

Art Unit

2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 18-31 and 40-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 10-17 and 32-39 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 02/14/05, 1/20/05, 9/18/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Status

1. The application has been examined and claims 10-17 and 32-39 have been restricted, claims 1-9, 18-31 and 40-44 are rejected as detailed below and are pending in this office action.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-9, 18-22, 23-31 and 40-44, drawn to distributed database, classified in class 707, subclass 10.

Group II. Claims 10-17 and 32-39, drawn to version management (maintenance and management of multiple copies of database information or files), classified in class 707, subclass 203.

The inventions are distinct, each from the other because of the following reasons: inventions group I and group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention group II has separate utility such as addressing specifically a database server providing and creating copies of files. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Marcel Bingham (whom returned the voice message left for Brian Hickman) on 06/05/2006 a provisional election was made with traverse to prosecute the invention of Automatic and dynamic provisioning of databases, claims 1-9, 18-22, 23-31 and 40-44. Applicant in replying to this Office action must make affirmation of this election. Claims 10-17 and 32-39 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(l).

Specification

3. Applicant is required to provide a brief summary of the invention without adding new matter to the disclosed invention.

Content of Specification

- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application with useful, concrete and tangible result.

Claims 23 - 31 and 40 - 44 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 23 - 31 and 40 - 44 are not limited to tangible embodiments. In view of Applicants' disclosure, specification page 21, paragraph 0075, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., [CD-ROM]) and intangible embodiments (e.g., [acoustic or light waves]).

As such, the claims are not limited to statutory subject matter and are therefore non statutory.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-9, 18-22, 23-31 and 40-44 rejected under 35 U.S.C. 102(e) as being anticipated by Pub No: US 200310212789 to Hamel et al (hereinafter Hamel).

Claim 1.

Hamel discloses:

A method for automatically provisioning data in a distributed database system, the method comprising the steps [distributed databases, See Hamel para 0001, 0031], a database server causing a tablespace to be transported from a first file system to a

Art Unit: 2166

second file system [tablespace, source database, target database, See Hamel para 0075] ; and after transporting said tablespace to said second file system, said database server

importing said tablespace into a local database managed by said database server [See Hamel para 0056, 0061].

Claim 2.

Hamel discloses the elements of claim 1 as above and furthermore it discloses wherein the step of a database server causing a tablespace to be transported and the step of said database server importing said tablespace are both performed in response to invocation of a routine [trigger (invocation), sequence (routine) See Hamel para 0064].

Claim 3.

Hamel discloses the elements of claim 1 as above and furthermore it discloses wherein said routine is written in code that conforms to a database language and that may be executed by a database server [See Hamel para 0033].

Claim 4.

Hamel discloses the elements of claim 1 as above and furthermore it discloses wherein the step of importing includes attaching said tablespace to said local database [tablespace, copy, replicated, See Hamel para 0056, 0061, 0075].

Claim 5.

Hamel discloses the elements of claim 1 as above and furthermore it discloses wherein the tablespace is attached to another database before and during performance of the step of said database server causing a tablespace to be transported [See Hamel para 0056, 0061, 0075].

Claim 6.

Hamel discloses the elements of claim 1 as above and furthermore it discloses wherein the tablespace is off line before and during performance of the step of said database server causing a tablespace to be transported [See Hamel para 0004].

Claim 7.

Hamel discloses the elements of claim 1 as above and furthermore it discloses: importing the tablespace includes attaching a copy of the tablespace, wherein the copy is different than said tablespace [See Hamel para 0056, 0061, 0075]; and said database server provisions a synchronization mechanism that applies changes made to the tablespace to the copy [synchronize, See Hamel para, 0061, 0075].

Claim 8.

The method of claim 7, wherein the synchronization mechanism applies changes made to the copy to the tablespace [synchronize, apply program, See Hamel para, 0061, 0075].

Claim 9.

Hamel discloses the elements of claim 7 as above and furthermore it discloses wherein the steps further include:
the synchronization mechanism determining which changes to the tablespace to propagate to the copy based on the results of an evaluation of a set of rules by a rules engine [synchronize, copies only changes that were committed at the replication source, See Hamel para, 0061-62, 0075]; and
wherein the step of provisioning the synchronization mechanism includes configuring said set of rules [synchronize, See Hamel para, 0061, 0075].

Claim 18.

Hamel discloses:

A method for automatically instantiating database data in a distributed database system, the method comprising the steps [distributed databases, See Hamel para 0001, 0031]:
a database server causing a set of one or more files to be transported from a first file system to a second file system [distributed databases, replicated tablespace, See Hamel para 0031, 0075];

wherein said set of one or more files store data for a database [data warehouse, See Hamel para 0084, 0061]; and
after transporting said set of one or more files to said second file system, said database server provisioning said database as a database managed by said database server [See Hamel para 0056, 0061, 0084].

Claim 19.

Hamel discloses the elements of claim 18 as above and furthermore it discloses wherein the set of files is a tablespace, wherein the step of provisioning includes: attaching said tablespace to said database [tablespace, copy, replicated, See Hamel para 0056, 0061, 0075].

Claim 20.

Hamel discloses the elements of claim 18 as above and furthermore it discloses wherein said set of one or more files includes metadata describing database objects and commands for inserting data into the database objects, wherein the step of provisioning includes importing said data into said database by executing commands [metadata, command, See Hamel para 0034].

Claim 21.

Hamel discloses the elements of claim 18 as above and furthermore it discloses wherein said set of one or more files includes backup files created by a recovery

Art Unit: 2166

manager, wherein the step of provisioning includes causing said recovery manager to create said database from said backup files [recovery log, database, see Hamel para 0026].

Claim 22.

Hamel discloses the elements of claim 21 as above and furthermore it discloses, wherein an archive log stores data recording changes to said database made after creating the backup files, wherein the step of provisioning further includes changing said database to reflect changes recorded in said archive log [recovery log, database, see Hamel para 0026, 0028].

7. Subject matter of claims 23 - 31 and 40 - 44 are rejected in the analysis above in claims 1 - 9 and 18 - 22 and these claims are rejected on that basis.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emeka Ebirim whose telephone number is 571-272-3994. The examiner can normally be reached on 8:30pm - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam, can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Emeka Ebirim
Examiner
Art Unit 2166

June 7, 2006


KHANH B. PHAM
PRIMARY EXAMINER